

REMARKS

Reconsideration and further examination of the subject patent application is respectfully requested in view of the present Amendment, and the following Remarks. Claims 1-46 are currently pending in the application. Claims 1-9, 16-20, 22, 36-39 and 45-46 have been rejected under 35 U.S.C. §102(e) as being anticipated by Schulze et al. ("Schulze") (U.S. Pub. No. 2001/0027384). Claims 13-15, 21, 23-28, 32-35, and 42-44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schulze in view of U.S. Pat. No. 6,857,072 to Schuster et al. ("Schuster"), and claims 10-12, 29-31, 40 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schulze in view of U.S. Pat. No. 6,823,318 to Creswell et al. ("Creswell"). Dependent claim 2 has been amended. After careful review of the references and the claims, it is believed that the claims are in allowable form and therefore a Notice of Allowance is respectfully requested.

Independent claim 1 is limited to a data processor that operates on the communication channel that connects the customer and agent. Thus, the claimed system's first communication process and second communication process are on the same channel. Claims 22, 23, 24 and 36 similarly call for the second communication process on the same channel as the first.

In contrast, Schulze involves two separate communications channels. In Schulze, as shown in Fig. 1 and described at paragraph 0047-48, voice traffic is transmitted through the communications channel made up of the combined wireless network 20 and the PSTN 22 to the 911 operator or medical care provider, but data is transmitted over a different communications channel established thru the network 20 through an Interworking Function 24 to the Internet 26

for retrieval through the host 30.

The Office Action asserts that Schulze sends data over the cellular network to the host and transmits voice and data over the cellular network. However, no communication channel in Schulze is established solely through the cellular network (i.e. in Schulze, the network 20 alone cannot form a channel which connects the customer and the agent). As described in the cited paragraph 0045, Schulze describes the data as being transmitted “over a cellular network to the Internet and then to the Host”, and in para. 0044 “Data from the monitoring system are then sent in a wireless mode over a cellular network to the Internet and then to a data analysis center (Host).” Thus, the data is transmitted over a cellular network/IWF/ internet communications channel which is necessarily a different channel than the channel used for voice communication which is a channel established through the cellular system 20 and the PSTN 22. (Para. 0048 “...voice traffic is being transmitted from the patient, a cellular network 20 connects the public telephone network 22...”). These two different communications channel paths can be seen clearly in Fig. 1, with the voice path from the MVPM 22 through the WN 20 on voice channel 14 through the WN 20 then thru the PSTN 27 to provider 28; and the data path from MVPM 12 through NW 20 through IWF 24 then thru Internet 26 to Host 30. These are clearly different channel paths to different destinations (with the provider having to subsequently retrieved the data from the Host). Therefore, independent claims 1, 22, 23, 24 and 36 which use the same channel for both communication processes, are believed to be distinguishable over Schulze. In addition, neither Schuster, nor Creswell disclose this feature. Thus, claims 1, 22, 23, 24 and 36 are believed to be allowable over any combination of the cited references. The dependent claims

2-21, 25-35, and 37-46 are also believed to be allowable because they depend from allowable base claims.

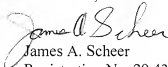
For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits a Notice of Allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to an extension of time fee, RCE fee, or the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

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